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New York

President: Mr. D'Escoto Brockmann ..... (Nicaragua)

In the absence of the President, Mr. Abdelaziz (Egypt), Vice-President, took the Chair.

The meeting was called to order at 3.10 p.m.

Agenda item 66 (*continued*)

Report of the International Court of Justice

Report of the International Court of Justice (A/63/4)

Report of the Secretary-General (A/63/229)

Mr. Hernández García (Mexico) (*spoke in Spanish*): The Mexican delegation is extremely grateful to the International Court of Justice for its hard work this year. We would also like to congratulate the President of the Court, Judge Rosalyn Higgins, for her outstanding work at the helm of the highest legal body. We wish to pay tribute to her as the first woman to be elected as a judge of the Court. Under her leadership, the Court has adopted a variety of measures that, with the passing of time, have had an impact on its efficiency. Her upcoming retirement will certainly pose an important challenge to the Court. On behalf of my delegation, I wish her every success in her future endeavours.

Mexico is fully confident that the renewal of the Court that will take place in the days to come will allow it to continue its outstanding work, ensuring that the primary legal systems and the various regional perspectives and views are duly represented.

It is important to highlight the 15 cases before the Court and the five judgments it issued in the period under consideration. Undoubtedly, that activity demonstrates the confidence that the international community has placed in the Court as one of the principal international juridical organs. Although there has been a constant increase in the number of cases brought before the Court, we are pleased that it has not fallen behind, which attests to the positive impact of the amendments made to the Courts' rules of procedure and working methods. Proof of that is the fact that, in the judicial year 2007-2008, the Court was able to consider six cases simultaneously.

My delegation welcomes the Court's achievement of its objective of clearing the backlog in its docket. As Judge Higgins stated, that has made it possible to ensure that States obtain justice without unreasonable delay.

Nevertheless, Mexico notes with concern another important issue raised in the report — the urgent need to increase human resources to support the activities of the Court. In that respect, we agree that there is an urgent need for the Court's members to have personalized legal support so that they can spend more time in consideration and deliberation. The creation of a documents division by merging the Library and the Archives Division is also essential to the proper and flexible functioning of the Court. Given the Court's heavy workload, it is important for the General Assembly to heed the call to increase the number of law clerk posts and to create the aforementioned documents division.

This record contains the text of speeches delivered in English and of the interpretation of speeches delivered in the other languages. Corrections should be submitted to the original languages only. They should be incorporated in a copy of the record and sent under the signature of a member of the delegation concerned to the Chief of the Verbatim Reporting Service, room C-154A. Corrections will be issued after the end of the session in a consolidated corrigendum.

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The current report (A/63/4) clearly and concisely describes the disputes now before the Court, which reflect its universal character. My delegation notes that five of the 15 cases before the Court in the reporting period involve Latin American States, and that two cases involving the region were resolved this year. One of the two judgments issued on Latin American disputes was the decision in the *case concerning Territorial and Maritime Dispute between Nicaragua and Honduras in the Caribbean Sea (Nicaragua v. Honduras)* in which sovereignty over Bobel Cay, Savanna Cay, Port Royal Cay and South Cay was decided. The ruling of the Court stated that neither of the two States had title to those islands by virtue of the principle of *uti possidetis juris*. The Court ultimately established the sovereignty of Honduras, based on the principle of effective sovereignty.

Equally important was the Court's decision to reject the equidistance line method to delimit maritime zones between the two States, instead preferring to carry out a complex delimitation process using a bisector line. The decision also demonstrates the Court's capacity to deal with topics that are highly complex both technically and legally, while safeguarding the rights of third States that could be affected.

As the Assembly will recall, Mexico participated for the first time in a dispute before the International Court of Justice in the *Case concerning Avena and Other Mexican Nationals (Mexico v. United States of America)*. In that case, the Court specified the scope of obligations set forth in article 36 of the Vienna Convention on Consular Relations with regard to the right to notification and information on consular assistance and clarified those aspects that the parties wanted to be defined in the *LaGrand (Germany v. United States of America)* ruling. The report notes Mexico's filing of a request for interpretation of the *Avena* Judgment, based on article 60 of its statute. The request was accompanied by a request for the granting of provisional measures to stay the execution of José Ernesto Medellín and four other Mexican nationals in Texas. Mexico's recourse to the Court is based on its trust in that principal international tribunal as the suitable forum for the peaceful settlement of disputes between States.

Today the International Court of Justice intervenes in the settlement of disputes dealing with subjects that are very different from those it has traditionally addressed, such as territorial and maritime delimitation disputes. Today's issues are related to the treatment of nationals by other States, the denunciation of massive human rights violations such as genocide, or the management of shared natural resources.

My delegation welcomes the detailed information in the report on the role of the International Court of Justice in the promotion of the rule of law, as well as the Court's contribution to the analysis of that topic in the General Assembly. We agree with the Court's interpretation regarding its fundamental role in the promotion of the rule of law as the tribunal of justice and as the principal judicial organ of the United Nations.

Finally, we wish to highlight the importance of disseminating the Court's decisions through its publications and website. As my delegation has noted before, the United Nations Secretariat has translated only a very few of the Court's decisions into all the Organization's official languages. We encourage the Organization to continue its efforts, in a gradual manner, to make the work of the Court available to Member States in all the official languages.

Mexico reiterates before the Assembly its full support for and commitment to the International Court of Justice.

Mr. Elshareef (Sudan) (*spoke in Arabic*): My delegation believes that the International Court of Justice is one of the strongest citadels of justice and an honest guardian of the rules of international law. Thus it deals with matters concerning the rule of law rather than matters on the law of domination, hegemony, violence and the use of force in relations among States. My delegation is also pleased to express its deep appreciation to Ms. Rosalyn Higgins, the President of the International Court of Justice, for her presentation of the report (A/63/4), which described all of its activities and highlighted its most significant achievements in the fulfilment of its tasks.

The many legal disputes from all over the world that are submitted for consideration by the Court include those between European States, between Latin American States and two African countries, as well as other regional and maritime disputes, and they are the best proof of its universality. We note here the growing number of cases before the Court and the many issues that it has decided on, as indicated in the report. That confirms and strengthens trust in the Court and its

ability to play its role and to discharge the most urgent and important task of the United Nations, namely the peaceful settlement of disputes under the umbrella of the rules of international law.

Here we also wish to note the increasing trust of Member States in the Court, as evidenced in the accession of 192 States to its Statute and the fact that 66 States, including the Sudan, have deposited with the Secretary-General a declaration of their acceptance of its compulsory jurisdiction.

My delegation wishes to stress the necessity of strict compliance with the Court's decisions. We noticed that some parties pay no heed to the advisory opinions of the Court which negatively impacts its performance and promotion of the rule of law. My delegation commends the Court's efforts to broadly disseminate its publications and documents. That provides a good opportunity for people to become acquainted with its decisions and opinions and enhances awareness and relations with other legal entities.

In conclusion, I wish to reiterate our belief in the principal role of the Court. We express our thanks to all of its judges, who perform their tasks with great professionalism and transparency. We reiterate our support for the Court in its efforts to achieve its noble objectives, namely justice and the rule of law.

The Acting President: We have heard the last speaker in the debate on agenda item 66.

May I take it that it is the wish of the General Assembly to conclude its consideration of agenda item 66?

It was so decided.

Agenda item 69

Report of the International Criminal Court

Note by the Secretary-General (A/63/323)

Report of the Secretary-General (A/63/471)

The Acting President: In addition to the note by the Secretary-General transmitting the report of the International Criminal Court, the Assembly has before it a report of the Secretary-General on expenses incurred and reimbursement received by the United Nations in connection with assistance provided to the Court.

I call on Mr. Philippe Kirsch, President of the International Criminal Court.

Mr. Kirsch (*spoke in French*): I am very pleased today to present the fourth annual report of the International Criminal Court (ICC) to the United Nations (see A/63/323).

Ten years ago, the General Assembly set the stage for the creation of the International Criminal Court when it decided to convene the Rome Conference to draw up the Statute of the Court. Since then, the Court has grown into a full-fledged independent judicial institution backed by 108 States parties.

In my remarks today, I would like to update the Assembly on developments at the Court over the past year, take stock of where the Court stands today, ten years after the Rome Conference, and share some thoughts on the future of the Court.

During the past year four situations were before the Court. Three were referred to the Court by States parties to the Rome Statute and concern events that took place on their own territories. The fourth was referred to the Court by the Security Council, acting under Chapter VII of the United Nations Charter. In that regard, it is useful to recall that, while the Statute provides for the Prosecutor to begin an investigation proprio motu in accordance with certain conditions, he has not yet used that option. All the situations before the Court today are there at the will of States or the Security Council.

In the situation in the Democratic Republic of the Congo, referred to the Court by that State, preparations for the trial of Thomas Lubanga Dyilo before Trial Chamber I continued. He is accused of having enlisted and conscripted children under 15 and having made them take an active part in hostilities. On 13 June 2008, the Trial Chamber ordered a stay of the proceedings, having determined that a fair trial was not possible at that time due to the non-disclosure by the Prosecutor of potentially exculpatory evidence. On 2 July, the Trial Chamber consequently ordered Thomas Lubanga's immediate release. The decision to suspend the proceedings was upheld by the Appeals Chamber on 21 October. However, the same day, that Chamber reversed the decision of the Trial Chamber concerning Thomas Lubanga's immediate release. The Appeals Chamber found the Trial Chamber had not considered all relevant factors and remanded the issue

of the defendant's release to the Trial Chamber for reconsideration.

In the meantime, but separately from the judicial proceedings, the Prosecutor worked with the providers of the potentially exculpatory evidence to lift the confidentiality restrictions that have prevented him from disclosing those materials to the defence or from making them available to the judges. The Prosecutor has submitted a new application for the judges to review those materials. The decision on Thomas Lubanga's release and the Prosecutor's new application are currently under consideration by the Trial Chamber.

In the same situation, the Democratic Republic of the Congo surrendered Mathieu Ngudjolo Chui to the Court on 7 February 2008. His case was subsequently joined with that of Germain Katanga, who had been surrendered to the Court in October 2007. In September 2008, Pre-Trial Chamber I confirmed seven charges of war crimes and three charges of crimes against humanity against each of those two individuals. Last Friday, the joint file of Mr. Katanga and Mr. Ngudjolo was transmitted to a new Trial Chamber, which is beginning preparations for their trial.

In the situation in the Central African Republic, referred to the Court by that State, Belgium surrendered Jean-Pierre Bemba Gombo to the Court on 3 July 2008. He is suspected of having committed war crimes and crimes against humanity. Pre-Trial Chamber III has begun preparations for a hearing on the confirmation of the charges against Jean-Pierre Bemba. A date for that hearing is still to be decided.

In other cases, proceedings continued to a limited degree owing to the fact that the following individuals have not been arrested or surrendered to the Court: in the situation in the Democratic Republic of the Congo, Bosco Ntaganda; in the situation in Uganda, referred to the Court by that State, Joseph Kony, Vincent Otti, Okot Odhiambo and Dominic Ongwen; and in the situation in Darfur, Sudan, referred to the Court by the Security Council, Ahmad Harun and Ali Kushayb.

The Court has issued requests for arrest and surrender to States on whose territories those persons may be found. Under the Statute of the Court, States parties must arrest and surrender those persons in accordance with their national laws. Where they need assistance, the support of other States and international organizations is indispensable.

On 14 July 2008, the Prosecutor applied to Pre-Trial Chamber I for an arrest warrant for the President of Sudan, Omer Al-Bashir. That application is pending before the judges, who will decide independently whether or not there are reasonable grounds to believe that Mr. Al-Bashir committed crimes within the jurisdiction of the Court. On 15 October, the Chamber requested the Prosecutor to provide by 17 November additional supporting materials in relation to some aspects of that application.

The Prosecutor's Office continued the investigations in the four situations I have described. In addition, that Office examined information on crimes that may have been committed within the jurisdiction of the Court in other situations. Thus, the Prosecutor has publicly indicated that he is looking into situations concerning Colombia, Georgia, Afghanistan, Côte d'Ivoire and Kenya.

(*spoke in English*)

Now, I would like to turn to where the Court stands today, 10 years after the Rome Conference was convened by the General Assembly.

The ICC was born out of the international community's experience. Fifty years after the historic Nuremberg and Tokyo tribunals, serious international crimes continued to be committed with impunity. Justice was too often bargained away for the prospects, no matter how unlikely, of short-term political gains, no matter how minimal. As a result, victims endured the double indignation of suffering harm and being denied recourse to justice. Entire regions were destabilized, as widespread or systematic crimes triggered or exacerbated conflict. Societies seeking to emerge from conflict often struggled with reconciliation and with the re-establishment of the rule of law.

Against that background, the creation of the ICC reflected the resolve of States to give a permanent institutional dimension to a fundamental shift in international relations that had started a few years earlier — from a culture of impunity to an approach based on respect for justice and the rule of law. The Court did not displace existing national or international mechanisms for resolving conflicts and ensuring justice. It was set up by States to complement, where necessary and only where necessary, their own national jurisdictions.

The Rome Statute reaffirms the purposes and principles of the United Nations Charter, and, while not a part of the United Nations system, the ICC exists in relationship with the United Nations. The Court is, nevertheless, a fundamentally different institution. Like justice itself, the Court is impartial and enduring. As a permanent and independent institution, it stands as a bulwark against the temptation, no matter how well intentioned, to bargain away justice. It does not partake in political negotiations to start or to stop investigations or proceedings. All are equally liable for crimes committed within the jurisdiction of the Court.

Since the entry into force of the Rome Statute in 2003, the Court has adhered strictly to its independent and impartial mandate. Before beginning each of the four current investigations, the Prosecutor analysed the available information and concluded there was a reasonable basis to begin an investigation. The judges scrutinized each application by the Prosecutor for a warrant of arrest to ensure that the objective criteria of the Rome Statute were met. In all of their judicial proceedings, the Pre-Trial, Trial and Appeals Chambers have faithfully upheld the Rome Statute, guaranteeing the rights of accused persons and suspects and giving effect to the rights of victims.

The accomplishments of the Court are not its own alone. They are due in large part to the States, international organizations and civil society that have supported it. The significance of those contributions has been evident in the last three years.

First, States have entrusted the Court to investigate and prosecute crimes fairly and independently where national courts are unwilling or unable to do so. As mentioned earlier, the Prosecutor has not yet taken up any situation proprio motu. Each situation under investigation has been referred to the Court by a State party or by the Security Council. In three of those four situations, States have asked the Court to look into situations on their own territories. In other words — and I wish to draw the Assembly's attention to this point — the Court has never yet chosen itself to intervene in any situation, any region or any country. It has only complied with its judicial mandate as requested by the States concerned or by the Security Council.

Secondly, the cooperation of States, international organizations and civil society has been essential to the Court's functioning. The Court's judicial proceedings were made possible by States surrendering suspects, protecting victims and witnesses and providing relevant information. I am pleased to report that the United Nations has consistently provided exemplary cooperation to the Court. Civil society has been an equally vital source of support for the Court, encouraging ratification of the Rome Statute, assisting States to develop necessary implementing legislation and providing a useful critical review of the Court's activities.

Thirdly, States, international organizations and civil society have been indispensable in ensuring respect for the Court's judicial mandate. The Court has been effective only because it is respected as an independent, purely judicial institution whose decisions will be enforced. The Court has earned that status in part through its own strict adherence to the Rome Statute, but also as a result of the cooperation and public support of others. In that regard, the Court greatly appreciates the Secretary-General's continued assistance and his reiteration of the independence of the Court. Similarly, a number of States parties and States not party to the Rome Statute have helped to create a climate of support through their words and actions. Where States have been silent, civil society has critically filled the void.

I would like to turn now briefly to the future of the Court. This is a critical stage for the ICC. It is still far too early to pass judgment on the success of the Court, which is a very young institution. Its development has been faster than expected and the early indications are decidedly positive, but the Court's success in the long term will depend on a number of factors. Most fundamentally, it will depend on the Court properly fulfilling its own mandate. The Court must and will continue to do its part to ensure its judicial independence and impartiality. It will investigate and prosecute crimes within its jurisdiction in accordance with the principle of complementarity. It will guarantee the rights of the accused and of suspects. It will interpret the Rome Statute and develop a body of jurisprudence. It will protect victims and witnesses. It will give further effect to the rights of victims to participate. It will address questions of reparations to victims. And in all those proceedings, it will continue to strive for the highest standards of efficiency and transparency.

However, it is important to bear in mind at all times that the ICC and the ICC system with its checks

and balances and limitations on the power of the Court were created by States as a judicial mechanism to assist in the achievement of certain objectives mentioned in the preamble of the Rome Statute, including the end of impunity, as a way to assist in achieving peace, security and the well-being of the world. That system can work effectively only if all actors in the system play their part and do so consistently. The success of the Court will therefore also depend on the actions of others.

The extent of ratification of the Rome Statute will affect the ability to which the Court can exercise its jurisdiction. Doing so truly globally, reaching universal jurisdiction over time, remains an indispensable goal.

The Court will continue to require the cooperation of States, international organizations and civil society. Legal obligations to cooperate with the Court must be met and additional cooperation will be needed. Most obviously, States need to execute warrants of arrest or support the execution of those warrants in accordance with the Rome Statute and their international obligations. Broader support will also be needed in protecting witnesses and agreeing to enforce sentences. States which have not yet done so are invited to enter into negotiations with the Court to conclude agreements on the protection of witnesses and the enforcement of sentences.

Most critically, it is vital that States, international organizations and civil society continue to respect and to ensure respect for the Court's independence and its purely judicial mandate. Their statements or their silence in certain circumstances can have significant impact on the effectiveness of the Court. Similarly, it is important to avoid any misperceptions with respect to the judicial nature of the Court or to the relationship between justice and peace. The creation of the ICC in 1998 was based on the conviction of States that justice and peace are complementary. The Court's mandate and its independence must then be reaffirmed and respected. It is particularly important to do so where the circumstances seem difficult.

As well as the tenth anniversary of the Rome Conference, this year marks the sixtieth anniversary of the adoption by the General Assembly of two groundbreaking legal texts: the Convention on the Prevention and Punishment of the Crime of Genocide, and the Universal Declaration of Human Rights. The former made clear the fundamental and universally accepted principle that the prevention of the worst crimes requires that perpetrators be punished. The latter gave voice to the equally fundamental and universal principle that justice must be independent, impartial and equally applied without distinction.

Those principles today are embodied in the Rome Statute, as was the will of States and in the activities of the International Criminal Court. That there was need for the Court is a testament to how often those principles were violated in the past.

That the Court was in fact created is a testament to the international community's commitment to putting an end to impunity and to establishing a new politics based on justice and the rule of law. How well we succeed in realizing those commitments is up to us. The Court will do its part, but the support of this body — the General Assembly — and all of its Member States, which worked so tirelessly for the creation of the Court, will be critical.

Mr. Renié (France) (*spoke in French*): I have the honour to speak on behalf of the European Union. The candidate countries Croatia and the former Yugoslav Republic of Macedonia, the countries of the Stabilization and Association Process and potential candidates Albania, Bosnia and Herzegovina, Montenegro and Serbia, and the European Free Trade Association country Iceland, member of the European Economic Area, as well as Ukraine, the Republic of Moldova and Armenia, align themselves with this statement.

I would first like to express my gratitude to the Presidents of the International Court of Justice and the International Criminal Court (ICC) for the submission of their respective reports (A/63/4 and A/63/323). The International Criminal Court's fourth very comprehensive report demonstrates that it is an active institution that is now able to accomplish the mission for which it was established.

In the period under review, namely, 2007 to 2008, the International Criminal Court indeed made substantial progress in conducting investigations and prosecutions in the four ongoing proceedings, involving in particular the Democratic Republic of the Congo, the Central African Republic and the Sudan. Significant developments have also taken place in court proceedings. The Court has been asked to rule on procedural issues that are critical to the trials ahead. That is especially the case as regards the participation

of victims and the rights of the defence, which are two fundamental aspects on which the judges had to rule as part of the case of *The Prosecutor v. Thomas Lubanga Dyilo*.

During the same period, the Court continued to enjoy the active and necessary support of States, primarily the member States of the European Union, in order to promote the goal of universality, which underpins the full application of the Rome Statute.

The latest ratifications from Suriname and the Cook Islands, which were very symbolic in that they were made during the tenth anniversary commemoration of the signing of the Rome Statute, have helped bring the number of States parties to 108. The progress also illustrates that the efforts made to promote the universality of the Rome Statute have been successful. In that context, the European Union and its member States are more willing than ever to maintain their support to ensure the membership of as many States as possible and guarantee the integrity of the Rome Statute.

Effective cooperation with the International Criminal Court is essential to enable the Court to accomplish its mission, as evidenced by the arrests of Germain Katanga, Mathieu Ngudjolo Chui and Jean-Pierre Bemba, which would not have been possible without the support of States parties.

The action of the Court must continue to be matched by all States, so as to ensure that persons subject to an arrest warrant are handed over and that justice is served. In that regard, the European Union is firmly committed to supporting the Court, so that all arrest warrants are executed quickly, especially in Darfur and Uganda. It recalls the Government of the Sudan's obligation to cooperate with the Court under United Nations Security Council resolution 1593 (2005). The obligation to cooperate with the International Criminal Court is non-negotiable. The European Union once again calls on the Government of the Sudan to fully cooperate with the ICC in order to implement the decisions of the Court.

The European Union continues to believe that combating impunity and realizing the Court's objectives also include implementing the principle of complementarity established by the Rome Statute. However, that principle presupposes that States have implemented the provisions of the Statute at the national level and that they have in place a judicial system that allows them to prosecute and try in the first instance those who have committed the most serious crimes on their territory.

In that regard, in a context where the use of universal jurisdiction is currently under debate — and not without some confusion — it is worth recalling that the Court is an international court that draws its legitimacy and prerogatives from the terms of an international treaty.

Lastly, we should note that there have been significant new developments in relations between the European Union and the Court: first, with the signing of a cooperation agreement in 2006, and then, last April, with the formalization of arrangements for the exchange and protection of classified information. Those developments have paved the way for further operational cooperation. As the report indicates, an operation under the European Security and Defence Policy, namely, the European Union military operations in Eastern Chad and North-Eastern Central African Republic, will, for the first time, support the Court in Chad, mainly in terms of security and logistics.

I should now like to say a word regarding the functioning of the Court in order to welcome the election of new judges and a new Registrar. In addition, we would like to emphasize that we believe that the recent appointment of former ICC Judge Navanethem Pillay as United Nations High Commissioner for Human Rights can only serve to strengthen the natural link between the protection of human rights and international criminal justice.

Finally, with regard to victims, the European Union welcomes the Court's advocacy and communication efforts, especially in the Democratic Republic of the Congo and Uganda. We urge that those efforts be extended to all situations.

The European Union is also pleased to note the participation of victims at trial. Being able to involve civil society and to reach the people affected is indeed essential. We also hope that the work of the Trust Fund for Victims will soon be fully visible to all and that it will remind the victims of crimes within the jurisdiction of the Court that the Statute was also established for them.

The Court is a fundamental tool, both to combat impunity when the most serious crimes undermining the very essence of humankind are committed and to

prevent and deter the use of violence. The European Union is, and will remain, firmly committed to the Court in achieving those goals.

Ms. Guy (Trinidad and Tobago): Trinidad and Tobago has the honour and privilege to speak on behalf of the members of the Caribbean Community (CARICOM) that are States parties to the Rome Statute of the International Criminal Court (ICC) on the report of the Court contained in document A/63/323. We would like to take this opportunity to thank Judge Kirsch, President of the ICC, for his report on the work of the Court.

This year marks the tenth anniversary of the adoption of the Rome Statute of the International Criminal Court. We were pleased to be part of the activities that commemorated that landmark event here at United Nations Headquarters. During the celebrations, we joined others in saluting the efforts of the international community aimed at establishing the only permanent international tribunal charged with prosecuting those accused of war crimes, crimes against humanity and genocide.

Of particular significance to us was the honour bestowed on former President and Prime Minister of the Republic of Trinidad and Tobago, The Honourable Arthur N. R. Robinson, for his contribution to international criminal justice and his pioneering work, together with others, that led to the establishment of the Court. We continue to play our part towards achieving the universality of the Rome Statute. In that regard, we also wish to congratulate Suriname on its accession to the Statute in July of this year.

In a relatively short period, 108 States Members of the United Nations have become parties to the Statute and have undertaken to bring an end to impunity by holding accountable those persons accused of committing crimes that shock the conscience of humankind. Those States have conferred on the ICC jurisdiction to prosecute those crimes referred to in article 5 of the Statute. Over the past 10 years, the ICC has shown that it is an independent and impartial tribunal with a bench of highly qualified judges and a cadre of competent professional staff.

The achievements of the Court in respect of matters emanating from the Democratic Republic of the Congo, Uganda, the Sudan and the Central African Republic show that it is at the centre of the system of international criminal justice. The ICC has surpassed the expectations of its supporters and dumbfounded some of its staunchest detractors.

The Court continues to demonstrate fairness and impartiality, and at the same time it has scrupulously observed the fundamental tenets of due process. Such impartiality and independence were observed in the case of Thomas Lubanga Dyilo, where Trial Chamber I issued a stay of proceedings and ordered the unconditional release of Mr. Lubanga, subject to appellate proceedings. We eagerly await the outcome of the case, which has been referred back to the Trial Chamber for determination by the Appeals Chamber. We remain firm believers in the integrity of the judicial process and the neutrality of the judges.

Without the cooperation of States parties, it would be difficult, if not impossible, for the ICC to fulfil its mandate. We are of the view that States must respect their treaty obligations and cooperate with the Court to the benefit of all of us who are advocates for justice, and especially to bring relief to the hapless victims of crime. The effective and timely cooperation of States parties is essential to the execution of arrest warrants, the surrender of accused persons and the protection and relocation of witnesses. The cooperation of States would also ensure that the rights of victims to participate in the trials of alleged offenders are not compromised. We therefore call on all States parties, especially situation countries, to cooperate fully with the Court in the interest of promoting international peace and justice and an end to impunity. Nonetheless, we recognize the progress made by the Court in conducting its business with the aid of States parties and other entities.

We nevertheless must stress that it would be difficult, especially in situation countries, to promote a regime of international peace and justice without cooperation with the Court. Peace and justice are twin ideals that are recognized in both the United Nations Charter and the Rome Statute. The pursuit of either one must never be allowed to imperil the attainment of the other.

The Rome Statute contemplates an ICC that has complementary jurisdiction with those of national courts. States parties have an obligation to implement in their domestic legal systems legislation to give full effect to their obligations under the Statute. Consequently, we request that States parties take the necessary measures to enact domestic legislation, in

keeping with their commitments under the Statute, as soon as possible. Additionally, we also appeal to States that have not as yet done so to ratify the Agreement on the Privileges and Immunities of the ICC.

The preamble to the Rome Statute contemplates cooperation between the ICC and the United Nations. During the past year, we have witnessed increased cooperation between both bodies, most notably in the Central African Republic and the Democratic Republic of the Congo. Such collaboration is further testimony to the importance of multilateral initiatives in addressing issues of grave concern to all members of the international community.

Moreover, pursuant to the provisions of the Relationship Agreement between the United Nations and the ICC, the United Nations was able to provide facilities and services for the successful hosting of both the sixth and the resumed sixth sessions of the Assembly of States Parties. The hosting of the Assembly at United Nations Headquarters has resulted in increased participation by States parties and enhanced the visibility of the Court to the wider United Nations system.

Article 36 of the Rome Statute provides for very complex criteria for the election of judges to the ICC. CARICOM States parties recognize the need for the Court to have judges who not only are highly qualified and of high moral character, but who also possess the requisite experience in international law, or criminal law and procedure, and who qualify for appointment to the highest judicial offices in their countries. We strongly believe that any derogation from those standards could negatively affect the ability of the Court to adjudicate on those crimes provided for in article 5 of the Rome Statute.

It is for that reason that CARICOM has endorsed the candidature of Justice Mohamed Shahabbudeen of Guyana for election as a judge of the ICC at the elections scheduled for the resumed seventh session of the Assembly of States Parties in January 2009. That candidature has also been endorsed by the Group of Latin American and Caribbean States. Justice Shahabbudeen has served as a judge on the International Court of Justice and is currently a judge in the Appeals Chamber of the International Criminal Tribunal for Rwanda, as well as a judge on the International Criminal Tribunal for the former Yugoslavia. We would therefore welcome the support of all States parties for the candidature of that illustrious and eminently qualified jurist.

In conclusion, CARICOM States parties reiterate our commitment to the principles and objectives enshrined in the Rome Statute of the ICC. We remain convinced that an important pillar in the maintenance and promotion of the rule of law at the national and international levels is the existence of a permanent international criminal tribunal with jurisdiction to prosecute all those whose actions undermine international peace and security. The imminent closure of the ad hoc tribunals established by the Security Council makes the ICC an essential element of the international criminal justice system. There must be no safe haven for the perpetrators of the most serious crimes of concern to the international community. We will continue to work with States and other entities to provide for a strong, independent and effective ICC that we can bequeath to future generations.

Mr. Hill (Australia): I have the honour to speak on behalf of Canada, New Zealand and Australia (CANZ). We thank Judge Philippe Kirsch, President of the International Criminal Court (ICC), for his presentation of the report of the important work of the ICC.

The Court, in our view, is making significant steps forward. In the past year, the Court has issued four new warrants of arrest — three in the situation in the Democratic Republic of the Congo and one in the situation in the Central African Republic. CANZ welcomes and commends the actions of the Democratic Republic of the Congo in surrendering Germain Katanga and Mathieu Ngudjolo Chui to the Court and Belgium in arresting and surrendering Jean-Pierre Bemba Gombo to the Court. Those surrenders provide examples of the results that can be achieved through close cooperation with the Court.

CANZ recognizes that the Court continues to face challenges, particularly where it is entirely reliant on cooperation and support from others to fulfil its mandate. It is of the utmost importance that States rise to meet those challenges. Failure to do so risks the international community betraying the victims of serious crimes. CANZ encourages all States to assist the Court through practical measures.

CANZ also calls upon all relevant actors, including the authorities in Uganda and the Democratic Republic of the Congo, to cooperate closely with the

Court and one another in ensuring the full implementation of their obligations under the Rome Statute, including the execution of outstanding arrest warrants, and in assisting the Court to fulfil its mandate.

We again call on the Government of the Sudan to help bring an end to impunity for the most serious international crimes. In particular, we urge the Government of the Sudan to cooperate with the Court and to take all necessary steps to arrest Minister of State for Humanitarian Affairs Ahmad Harun and to transfer him and militia leader Ali Kushayb to the Court for trial. Acting on the arrest warrants will demonstrate not only respect for the rule of law, but also support for international criminal justice generally.

The judicial work of the Court has continued apace, with preparations for trials continuing and the Court deciding on the confirmation of charges and applications for victim participation. Those are all signs of a Court that is conducting itself professionally, expeditiously, without political interference and according to its mandate.

Universal ratification of the Rome Statute is crucial to the Court's success. If we are to ensure that the perpetrators of the world's most egregious crimes are denied a safe haven, we must step up our collective efforts to promote the universality of the Rome Statute. We are pleased that there have been three additional ratifications and accessions to the Rome Statute in the past year. We welcome Madagascar, Suriname and the Cook Islands as parties to the Rome Statute. It is notable that there are now 108 States parties — over 55 per cent of the United Nations membership.

CANZ have continued its efforts at the regional level to encourage further ratification. Australia and New Zealand, for example, have worked over the past year with Pacific island States to encourage their ratification and implementation of the Rome Statute. In August, New Zealand and Australia participated in a regional seminar held by the Samoan Government to raise awareness of the Court and develop a model Pacific law for the Statute's implementation.

Since September 2000, Canada's Global Peace and Security Fund has provided more than $10 million in funding to support events and projects that promote ratification and implementation of the Rome Statute, assist with the effective functioning of the Court and other international criminal tribunals, and provide education and outreach related to the Court and other international criminal tribunals. Through the Fund, Canada supported the publication of the third edition of the *Manual for the Ratification and Implementation of the Rome Statute*.

On 17 July 2008, we celebrated the tenth anniversary of the adoption of the Rome Statute. The anniversary provided an opportunity to reflect on the Court's achievements and reinforce our collective support for it. In that relatively short period of time, the Court has established itself as a central institution of international criminal justice.

Providing a permanent, impartial and fair process for the investigation and prosecution of those accused of serious international crimes is a key component in the fight for international justice. We are convinced that having mechanisms to promote and ensure justice in conflict situations can only contribute to sustainable peace.

As noted earlier, the Court has now reached a crucial stage of its development, and it has become clear that the establishment of a global justice system brings with it many challenges. The Court needs our full support and cooperation to bring individuals responsible for the most serious violations of international law to justice without delay. In particular, we must ensure that any use of article 16 to defer cases is only contemplated in exceptional circumstances. To fail to do so would represent a failure to ensure justice for egregious international crimes.

With the Court now six years old, we are firmly on the path to justice being a reality for perpetrators of serious crimes worldwide. That path will lead to enhanced respect for, and adherence to, the international rule of law. CANZ will continue to provide the Court with our strong and unwavering support. We call on all Member States to do the same.

In closing, it would be remiss of me, on the occasion of President Kirsch's final report to this Assembly, not to express, on behalf of CANZ, our deep appreciation for his impressive leadership of the Court over its formative years and to wish him well in his future endeavours.

Mr. Maurer (Switzerland) (*spoke in French*): My delegation would first like to thank President Philippe Kirsch for his presentation of the fourth annual report of the International Criminal Court (ICC) (see

A/63/323), reviewing the Court's work and the main facts concerning its relations with the United Nations. We would also like to express our gratitude to all the staff members of the Court for their work and for their daily efforts to accomplish their extremely difficult tasks.

While the Statute provides the Court with the legal means to fulfil its tasks, it does not grant it the competence to implement its decisions. The Court therefore relies heavily on the cooperation of States to accomplish its tasks. In that regard, we very much welcome the cooperation of certain States, which has, in particular, made possible the transfer, in the course of the year under review, of three defendants in connection with the situations in the Democratic Republic of the Congo and the Central African Republic.

However, we are concerned that at the moment no less than seven arrest warrants are still pending execution. In that connection, my delegation would like to reiterate that, in accordance with the Rome Statute and obligations under the Charter of the United Nations, it is the responsibility of States to support the Court and to cooperate fully with it. Without the cooperation of States, the Court will simply not be able to fulfil the mandate that has been entrusted to it.

As underlined in the report presented by President Kirsch (see A/63/323), the cooperation of States is not limited to the execution of arrest warrants but also covers other activities, such as the protection of witnesses. That cooperation concerns in particular those States affected by situations being examined by the Court, as well as their neighbouring States. Switzerland considers the protection of witnesses to be a central element in the proper administration of international criminal justice. We therefore commend the measures taken and the new methods of protection put in place, in cooperation with national and local authorities, to strengthen witness protection.

Also in the area of cooperation, my delegation welcomes the continuing collaboration between the United Nations and the Court. That cooperation is essential at several levels, especially for the facilitation of the Court's operations on the ground. It is imperative that it should continue in the future.

Over the past year, some criticism of the Court has been voiced in connection with the institution of proceedings and with requests for arrest warrants. My delegation believes that such criticism is proof and example of the fact that the Court today is well established and anchored in the international system and that its activities have a tangible impact. The debates with regard to the Court demonstrate the importance and the relevance that it has acquired since the adoption of its Statute 10 years ago.

Finally, my delegation would like to reiterate that Switzerland continues to believe that justice and peace are mutually reinforcing and fundamentally complementary, and even inextricably linked. International criminal justice is a key element in the fight against impunity and in the strengthening of the rule of law. Those elements are central in all societies that have experienced the devastation of war. The most serious crimes affecting the international community as a whole must not go unpunished. There can be no doubt that the prosecution of those crimes contributes to peace and reconciliation. That is why Switzerland believes that peace processes that aim at establishing lasting peace and security cannot dispense with justice.

In conclusion, I would like to stress once again that Switzerland remains committed to and continues to support the Court, its activities and its independence.

Mr. Barriga (Liechtenstein): We would like to thank the President of the International Criminal Court (ICC), Mr. Philippe Kirsch, for presenting the report of the ICC (see A/63/323) to the General Assembly.

We are satisfied that the Court has continued to make progress in its judicial work, considering in particular that in the early stages of its life the Court has had to take difficult decisions that will serve as precedents for many years to come.

We particularly welcome the additional arrests made with respect to the situations in the Democratic Republic of the Congo and the Central African Republic. During the reporting period, the number of suspects in custody of the Court rose from one to four. It is expected that up to three trials will take place in 2009. At the same time, we are gravely concerned that seven arrest warrants are still awaiting execution; some of them have waited for more than three years.

The Court today shows many signs of being a healthy judicial institution, including a vibrant legal dialogue between its organs as several cases move along. That should be encouraging for States parties

and observers alike. It may be true that the Prosecutor's actions receive the greatest attention in the media, as is often the case with judicial institutions, but the actual record of the Court over the past year shows that there is a clear balance between all the organs of the Court, as envisaged by the Rome Statute.

At every step of the proceedings, decisions are delivered by judges acting in chambers — collegial organs composed of fully independent and impartial personalities representing all the regions and legal systems of the world, with almost half of them being women. We fully trust their capabilities and integrity, which they have proven many times already during the first years of the Court's existence, in the interests of due process and justice.

While the Court has continued to fulfil its mandate under the Rome Statute and in accordance with the United Nations Charter, its activities have received extraordinary attention in the public sphere over the past months. That is particularly true for the Prosecutor's application for a warrant of arrest against the President of the Sudan, which is currently under consideration by a pre-trial chamber. As a State party to the Rome Statute, we fully respect the independence of the Court and will therefore not comment on the specifics of cases before the Court.

We have also on several occasions commented on what is often, in simplistic terms, referred to as the question of peace versus justice, which would require its own separate debate. Our views on that complex issue are well known. They are based on the principle that amnesty or any other form of impunity for genocide, war crimes and crimes against humanity are unacceptable under international law. We would, however, like to take this opportunity to comment on questions raised in that context regarding the jurisdiction of the Court.

The ICC is an independent judicial institution established by a treaty, the Rome Statute. At the same time, however, its jurisdiction is in principle based on two different and separate legal authorities. On the one hand, the Court may exercise its jurisdiction on the basis of the consent of States, most importantly via the ratification of the Rome Statute or a special declaration to that effect. Three out of the four current cases are based on such State consent. In fact, those three States have specifically asked the Court to open investigations into crimes committed on their territory.

On the other hand, the Court may exercise jurisdiction on the basis of a Chapter VII mandate by the Security Council. In that instance, the ICC acts very much like an ad hoc tribunal established by the Security Council itself. The obligation for all States concerned to cooperate with the investigation emanates not solely from the Rome Statute, but from a Security Council resolution — such as resolution 1593 (2005), referring the situation in Darfur to the ICC. That obligation to cooperate is firmly rooted in the United Nations Charter and is in principle not any different from the obligation to cooperate with the Tribunals for the Former Yugoslavia and for Rwanda. We therefore call on all States concerned to abide by their obligations under international law and to cooperate fully with the Court.

We welcome the new States parties to the Rome Statute, bringing its number to 108 and thus another step closer to universality. We also respect the approach of some States that continue to evaluate the merits of ratification or accession. We encourage them, once again, to enter into a dialogue with the Court and with other States parties on related questions. We would suggest that the argument I made earlier regarding the two distinct bases for the Court's jurisdiction also has important implications for any non-State party assessing the value of joining the Rome Statute.

As a matter of fact, every State in the world is already potentially subject to the Court's jurisdiction by way of a Security Council referral. In that sense, every State is already part of this common venture to end impunity, and incurs important legal obligations. However, only States parties to the Rome Statute are also rewarded with important rights. States parties find themselves under the protection of the Court, which may open investigations into crimes committed on a State party's territory, thereby contributing to the prevention of such crimes. That protection applies not only to crimes committed by nationals of States parties, but also to crimes committed by foreign forces.

Furthermore, States parties have the right to contribute to the institutional framework of the Court, inter alia; by nominating and electing judges and other senior officials and by deciding on the Court's budget. The Rome Statute provides an elaborate system of accountability in which States Parties play a central role.

In sum, becoming a State party to the Rome Statute brings clear benefits to any State that is committed to preventing and punishing genocide, war crimes and crimes against humanity on its territory. In turn, every ratification of the Rome Statute constitutes another step towards more effective rule of law at the international level.

I would like to emphasize that Liechtenstein has been a long-standing supporter of the International Criminal Court and that we are proud to have been entrusted with the presidency of the Assembly of States Parties for the next three sessions. During that time, States parties will discuss possible amendments to the Rome Statute, most prominently with respect to the crime of aggression. The Review Conference at which the respective decisions will be made is now only about a year and a half away. We encourage all delegations to continue to participate actively and with a constructive spirit in its preparation. The Conference has the potential to turn the Rome Statute into an even greater achievement than it already is today.

Mr. Chávez (Peru) (*spoke in Spanish*): I would like to thank the President of the International Criminal Court, Judge Philippe Kirsch, for being with us today and for his interesting presentation on the work of the Court in the past year.

On 17 July, we commemorated the tenth anniversary of the establishment of the International Criminal Court. Significant progress has been made since the Court took up its functions on 1 July 2002, but the Court, States and the United Nations still have a long way to go.

First of all, true universality must be achieved. Unfortunately, many States still have neither ratified nor acceded to the Rome Statute. Peru therefore calls on those States that have not yet done so to ratify or accede to the Statute in order to give it a truly universal scope.

Moreover, if the Court is to achieve its objectives, the cooperation of States is also necessary. In that regard, States must comply with their obligations under the Rome Statute by facilitating the exchange of information; enforcing the warrants issued by the Court; detaining the accused and, when necessary, transferring them to the Court; protecting witnesses and victims; and implementing and aligning their national laws with the Statute. It is therefore of concern that individuals for whom the International Criminal Court has issued warrants of arrest have not yet been detained for trial or delivery to the Court. Peru urges those States wherein those individuals are located to cooperate with the Court, to immediately detain them or to provide information on their possible location. We recall that there can be no lasting peace or security if the perpetrators of crimes enjoy impunity.

With regard to the progress made in Peru's cooperation with the International Criminal Court, I note that my country has already integrated a section pertaining to international judicial cooperation into our criminal procedural code, which is dedicated to the further development of part 9 of the Rome Statute to ensure its effective implementation. Such concrete action can be replicated and we therefore call upon those States that have not yet done so to implement the Rome Statute in their national laws.

With regard to cooperation between the International Criminal Court and the United Nations, the Relationship Agreement between both institutions has enabled the Court to accomplish valuable work, particularly in those regions where the United Nations is operating in the field, and to publicize and raise awareness of the Court's work. We trust that such cooperation will be increasingly close and coordinated so that the Court can draw on the support of the different organs of the United Nations, especially the Security Council.

Mr. Monthe (Cameroon), Vice-President, took the Chair.

However, the Court needs more than such support. It also needs its own premises in order to be able to carry out its work in the best possible conditions. For that reason, Peru wishes to thank the Oversight Committee for its work in preparing for the establishment of the headquarters of the Court. We hope that at the next meeting of the States parties efforts will continue to ensure that the construction of the Court's headquarters may begin shortly.

During the current judicial year, 3,443 communications were received in accordance with article 15 of the Rome Statute. We also wish to underscore that States and the Security Council alike have referred situations for consideration to the Court. That deserves the attention of the international community, as those situations may include potential cases of war crimes, crimes of genocide or crimes against humanity. Therefore, Peru wishes to reaffirm

its full support for the work of the International Criminal Court, and wishes in particular to acknowledge the outstanding work of the judges and officials who are working in the fight against impunity and thus towards peace, security and the well-being of humankind.

Finally, one pending task is the definition of the crime of aggression. The work accomplished by the Special Working Group on the Crime of Aggression has made a valuable contribution in this regard. Peru hopes that, at the seventh session of the Assembly of States Parties to the Statute of the International Criminal Court, further substantial progress can be made towards defining the crime of aggression with a view to the upcoming Rome Statute Review Conference in 2009.

Mr. Pírez Pérez (Cuba) (*spoke in Spanish*): My country has supported and will continue to support the establishment of an impartial, non-selective, efficient and just International Criminal Court that complements national justice systems, is truly independent and free from subordination to political interests that could distort its essence.

The International Criminal Court's lack of independence is a cause for concern, given how its relationship with the Security Council has been defined. Article 16 of the Rome Statute grants power to the Council to suspend the Court's investigations or indictments, and article 5 purports that the future regulation of jurisdiction of the Criminal Court's be subject to the Security Council's determination of whether or not an act of aggression has been committed by a State. Those two elements cast doubt on the true efficiency and independence of the Court.

The Cuban delegation has participated with particular interest in all phases of the process to establish the International Criminal Court and recognizes the relevance of the Rome Statute to international law. However, even the most modest expectations raised at the outset of the process, such as the elaboration of a definition of the crime of aggression, have not yet been met. We hope that the Special Working Group on the Crime of Aggression, which is open to participation by all United Nations Member States on an equal footing, can satisfactorily complete as soon as possible its work to draft a broadly accepted definition of that crime that will permit its perpetrators to be tried and sentenced. In that connection, we believe that the Assembly of States Parties should give the Working Group more opportunities to function by allocating it more time in its programme of work and by holding intersessional meetings if necessary.

For Cuba, a small country that is under an economic and financial blockade and that has been a victim of constant aggression by the greatest Power in history, it is very difficult to accede the Rome Statute without a clear and precise definition of the crime of aggression. We continue to hold a constructive position on the establishment of an international criminal justice system that is truly impartial, efficient, independent and complementary to national jurisdictions. In that connection, we have followed with interest the development and functioning of this new institution through, inter alia, our participation as observer in meetings of the Assembly of States Parties to the Rome Statute.

My delegation reaffirms its readiness to contribute to the application of truly effective international criminal justice that abides by the norms of international law and, in particular, the Charter of the United Nations.

Mr. Barttfeld (Argentina) (*spoke in Spanish*): Argentina expresses its appreciation and gratitude to Mr. Philippe Kirsch, President of the International Criminal Court, for presenting the fourth report of the Court to the General Assembly (see A/63/323).

This year, we are pleased to celebrate the tenth anniversary of the adoption of the Rome Statute and the recognition in the field of international law that the International Criminal Court has achieved since then. The fight against impunity for crimes against humanity, genocide and war crimes is one of the elements that have contributed most to the achievement of peace and stability in international relations. There can be no true national reconciliation in countries in conflict or during the subsequent peacebuilding phase, if we do not ensure adherence to those universal values by bringing to justice all perpetrators of such crimes without distinction. That linkage was stressed by Argentina on many occasions when it was a Security Council member in 2005 and 2006.

There are a number of positive elements to highlight in the report, which covers the period 1 August 2007 to 31 July 2008. While the Rome Statute had received 60 ratifications by 2002, 108

States are now parties as of this year. That demonstrates that the efforts to achieve the universality and full implementation of the Rome Statute are producing results. It should also be stressed that 63 States have already become parties or signatories to the Agreement on Privileges and Immunities of the Court.

During the period covered by the report, the situations in the Democratic Republic of the Congo, Uganda, Darfur in the Sudan, and the Central African Republic were referred to the Court, and legal actions were initiated in each of those cases. Three of those four States referred the situations to the Court themselves. However, the Court depends on the cooperation of States, international organizations and civil society in carrying out its work. While three persons were handed over to the Court, enabling it to take legal action against all of them, we are concerned that there are still seven outstanding arrest warrants.

There has been some progress in the area of cooperation, which is reflected, for example, in the support that the Court has received from the United Nations field missions in the Democratic Republic of the Congo and the Central African Republic. We should also highlight the headquarters agreement between the International Criminal Court and the host country, which entered into force on 3 March 2008. It has strengthened cooperation and facilitated the Court's functioning in The Hague.

As the Court has no police force of its own, cooperation among States, the United Nations, regional organizations and other actors is essential if we are to attain the objectives set out in the preamble of the Rome Statute by the States parties. That is why, at the end of 2006, Argentina implemented, within the framework of its domestic legislation, the provisions of the Rome Statute and relations of cooperation between the Argentine State and the International Criminal Court and ratified the Agreement on Privileges and Immunities of the Court, enabling the Court to carry out its work without impediments on Argentine territory.

Finally, because the purposes and principles set out in the Rome Statute of the International Criminal Court reflect those of the Charter of the United Nations and are therefore universal, Argentina urges all States that have not yet done so to accede to or ratify the Rome Statute in order to guarantee the universality of the fight against impunity.

Mr. Moeletsi (Lesotho): I have the honour to speak on behalf of my delegation. We warmly welcome Judge Philippe Kirsch, President of the International Criminal Court, and thank him for his presentation today. We also wish to register our highest regard and recognition with respect to the elaborate report (see A/63/323) that was presented today to the General Assembly at its sixty-third session.

Lesotho maintains that a balanced and constructive relationship between the United Nations and the International Criminal Court is extremely valuable, as it ensures the well-being of the Court while preserving the independence that it should have to ensure its proper functioning. My country is committed to the mandate of the Court and will continue to support endeavours to ensure an effective, impartial, non-selective, efficient and just Court that promotes and protects the interests of all States parties to the Rome Statute of the Court.

It is our considered view that the Court has already demonstrated its positive impact in identifying the perpetrators of systematic atrocities, thus strengthening the system of international justice and making an important contribution to the search for peace and the promotion of democracy and the rule of law. It will be noted, however, that those tangible milestones are being realized by the Court despite its handicap of having limited powers in some instances. To my delegation, that only reaffirms the importance of United Nations and State cooperation aimed at the future effectiveness of the Court.

My delegation believes that the Relationship Agreement between the United Nations and the Court provides many avenues for mutually beneficial cooperative efforts to establish the rule of law and to end impunity. Ending crimes of impunity requires determined cooperation on the part of interlocutors who have international peace, justice and security as their common goals and aspirations. Cooperation is necessary in the fields of communication, transportation, logistics and security, including protection of victims, witnesses and investigators, and in providing access to suspects and enabling the collection of evidence and documents.

Lesotho is a strong supporter of the International Criminal Court and has consistently and actively defended the integrity of the Rome Statute, and it will continue to do so. The establishment of the Court is

beyond doubt the most significant development in recent years in the long struggle to eradicate impunity for the most serious international crimes and thereby advance the cause of justice and the rule of law.

That point brings me to address an issue of concern to my delegation that was clearly articulated by the Minister for Foreign Affairs of Lesotho, Mr. Mohlabi Kenneth Tsekoa in the plenary of the General Assembly at its sixty-third session on 27 September 2008. The issue in question relates to the abuse of the principle of universal jurisdiction. The Sharm el-Sheikh Assembly of the African Union was seized with the issue of the abuse of the principle of universal jurisdiction by some countries that seem inclined to use this principle to target certain African Leaders.

We recognize that universal jurisdiction is a principle of international law, the purpose of which is to ensure that individuals who commit grave offences, such as genocide, war crimes and crimes against humanity, and who have heretofore enjoyed impunity are brought to justice. This noble principle should be impartially and objectively applied, so that it may not be abused for the political ends of some individuals or countries, as that could endanger international order and security. It is a well known fact that the application of this principle by individual States has been rendered unnecessary by the creation of the International Criminal Court.

If a State is unable or unwilling to deal with certain grave situations, such a matter should be referred to the International Court, which would deal with it impartially. Even the Security Council refers certain situations to the Court. We need only emphasize that the International Criminal Court was created by this world body and must enjoy the support and trust of the entire membership of the United Nations. It must also be immune from external influences.

In conclusion, my delegation wishes to reiterate that Judge Philippe Kirsch's report has reflected continued commitment to international criminal justice and to the importance of the rule of law in the United Nations system and in the international community at large.

Mrs. Juul (Norway): Let me start by expressing Norway's ongoing support for and full recognition of the work of the International Criminal Court (ICC) during the past year. Norway welcomes the Court's fourth annual report and would like to thank the President of the Court, Judge Philippe Kirsch, for the detailed and informative report (see A/63/323) and his presentation, which reflect the progress made during the period under review.

This July, the States parties to the Rome Statute along with civil society organizations celebrated the tenth anniversary of the adoption of the Statute. Celebrations were held in a number of locations to commemorate the milestone reached ten years ago when a Court was created that would prevent impunity for mass atrocities and bring perpetrators of such crimes to justice when national systems were not able or willing to do so.

The relationship between the International Criminal Court and the United Nations is of great importance. Bringing a climate of impunity to an end requires determined cooperation between actors who have international peace, justice and security as their common goals and ambition. The International Criminal Court is independent, but has strong legal, historical and operational ties with the United Nations.

The United Nations seeks to promote both peace and justice based on human rights. These are distinct but closely related objectives. They may be difficult to achieve simultaneously, but we must strive to do so. In this quest, the International Criminal Court is an effective and important tool for ending impunity and promoting the rule of law.

The interplay between the International Criminal Court and the United Nations is made clear, both in the Rome Statute itself and in the Relationship Agreement between the two parties. The preamble of the Rome Statute reaffirms the purposes and principles of the Charter of the United Nations. In particular, all States shall refrain from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations.

Norway welcomes the strengthening of the relationship between the International Criminal Court and the United Nations. We urge all States and international organizations to support the Court and the United Nations in their efforts to reach their common goals. Justice is also an important building block for peace, and the international community must ensure that the foundation for peace is solid and stands the test of time.

The mere existence of the International Criminal Court is making a significant impact on national systems, which are increasingly geared towards prevention and prosecution. The success of the International Court should therefore never be evaluated solely on the basis of the number of cases it hears. The success of the Rome Statute should be measured in terms of the overall decrease in impunity for such crimes and not in terms of the number of defendants brought to The Hague. Moreover, whenever national authorities investigate, prosecute or issue judgements in cases involving serious international crimes, that in itself reaffirms the core objective of the International Criminal Court, namely that perpetrators of such crimes be held accountable.

However, when national systems are not willing or able to bring perpetrators to justice, the principle of complementarity provides a safety net. This mechanism requires international cooperation, which is of the utmost importance to the activities of the Court. This idea is also stressed in the report itself.

During the period under review, three individuals were surrendered to the International Criminal Court, enabling the Court to begin judicial proceedings against each of them. However, seven arrest warrants pertaining to the situations in Darfur, Uganda and the Democratic Republic of the Congo remain outstanding. This situation is a matter of grave concern for Norway.

The credibility of the Court is not solely dependent on the number of cases brought before it. Nevertheless, the outstanding arrest warrants, four of which have been outstanding for over three years, give cause for concern. We urge all the States involved to fulfil their obligation to make these warrants effective.

With regard to the situation in Darfur, the Prosecutor has reported to the Security Council that the Sudanese Government, in the period under review, is still failing to comply with its legal obligations under Security Council resolution 1593 (2005). We therefore urge the Sudan to cooperate fully with the Court and to comply with its legal obligations without further delay.

We are pleased to note that, with the entry into force of the Rome Statute for Suriname and the Cook Islands on 1 October 2008, there are now 108 States parties to the Statute. That is an important step towards universality. The number of States Parties is rising year by year, and Norway strongly hopes that the International Criminal Court will enjoy universal adherence in the future. Furthermore, several States became signatories to the Agreement on the Privileges and Immunities of the International Criminal Court, bringing the total number of signatories to 63 States by the end of the period under review. We urge more States to follow suit.

The International Criminal Court is dependent on the cooperation of the States parties. As stressed in the report, the Court relies on cooperation in areas such as facilitating investigations, arresting and surrendering persons, protecting witnesses and enforcing sentences. All States parties must do their utmost to provide the ICC with the best possible working conditions. Norway expects States with legal obligations under the Statute or that have entered into cooperation agreements with the Court to fulfil their obligations and to demonstrate their commitment to justice in practice. We also urge more States to enter into agreements with the Court.

Finally, I would like to reiterate Norway's firm and long-standing commitment to the integrity of the Rome Statute and to an effective and credible International Criminal Court. We believe that the ICC should enjoy the broadest possible support from all States. We also believe that the long-term interests of all nations, irrespective of size, region or political orientation, are served by strengthening the rule of law and promoting justice. We all share the universal values attached to the protection of human dignity. That protection is enhanced by taking concerted action to suppress the most serious crimes affecting the international community as a whole.

Mr. Appreku (Ghana): My delegation wishes to thank the Secretary-General for his note accompanying his submission of the report of the International Criminal Court (ICC) (A/63/323) in accordance with article 6 of the Relationship Agreement between the United Nations and the ICC. My delegation also takes note of the Secretary-General's report on expenses incurred and reimbursements received by the United Nations in connection with assistance provided to the ICC (A/63/471). My delegation also thanks the President of the International Criminal Court, Judge Philippe Kirsch, for introducing the fourth report of the ICC with his thought-provoking address.

The adoption of the Rome Statute demonstrated the commitment of the international community to deterring and punishing impunity through the strengthening of mechanisms for international justice.

The Rome Statute, with its emphasis on individual accountability, serves in many respects to complement and reinforce the Charter of the United Nations, which has State responsibility as its central focus.

The Rome Statute contributes to ongoing efforts to resolve the prevailing tensions and often conflicting tendencies existing between the principle of non-intervention in the internal affairs of States and the undertaking by States Members of the United Nations to honour the obligations they assume under the Charter, including scrupulous respect for their obligation to respect human rights. Through the International Court of Justice's South-West African cases and the various resolutions declaring apartheid to be a crime against humanity, that tension seems to have been settled on the side of a presumption in favour of not allowing States and individuals to claim that matters are essentially within their *domaine réservé* as far as cases of egregious violations of human rights are concerned.

The Rome Statute as properly understood aims at reinforcing that trend, thus ensuring that individuals who commit acts of genocide, war crimes, crimes against humanity and ethnic cleansing cannot justify such heinous acts by abusing the concept of State sovereignty by invoking it as sword of impunity, and then by turning around and trying to hide behind that same State sovereignty by invoking it as a shield of immunity.

In keeping with that positive attitude, the African Union actually took the lead in some respects by enshrining in its Constitutive Act the right of member States to intervene in cases of genocide, crimes against humanity and war crimes. In Africa, we call that principle the doctrine of non-indifference, as opposed to non-interference. However, both the principle of the responsibility to protect — on which African countries were instrumental in achieving a consensus on having it be included in paragraphs 138 and 139 of the 2005 Summit Outcome Document — and Africa's doctrine of non-indifference require further clarification to ensure certainty and predictability as to the circumstances under which they could be engaged with less controversy. To be sure, efforts to promote the universality of the Rome Statute must be sustained if the authority and legitimacy of the International Criminal Court is to be enhanced.

My delegation notes that cooperation between the United Nations and the ICC continued at a satisfactory pace during the period under review. Ghana welcomes the entry into force on 3 March 2008 of the Headquarters Agreement between the ICC and the host State, the Netherlands, which, as acknowledged in the ICC's report, has further enhanced cooperation and has facilitated the Court's smooth operations in The Hague, thus bringing more clarity and certainty to issues that were not adequately covered by the interim arrangements.

Ghana further welcomes the project concerning the digitization of the entire legislative history of the Rome Statute, which is funded by the Court and being undertaken by the secretariat of the Assembly of States Parties and the Codification Division of the Office of Legal Affairs for the benefit of the Court itself, practitioners, academics and the general public. My delegation looks forward to the possibility of having that project linked to the audio-visual library project that was launched by the Under-Secretary-General and the Legal Counsel on Tuesday of this week, which together will strengthen the programmes for the wider dissemination of international law as a universal language.

The role of various partners, including civil society organizations, is also commendable and must be enriched through greater dialogue.

In his introductory address, the President of the International Criminal Court, Judge Philippe Kirsch, highlighted a number of challenges facing the Court that require our collective attention, including the need for adequate resources, some of which will be considered during the forthcoming session of the Assembly of States Parties, in which Ghana looks forward to participating actively. It is also hoped that factors leading to the slow response to requests for the conclusion of agreements for the enforcement of sentences, as well as ways to improve witness protection programmes, will be addressed among other outstanding and pending issues.

My delegation notes that the ICC has not yet completed the full cycle from the trial phase to appeal in any of the cases currently before it. It is our expectation that, by the time the Review Conference takes place in 2010, a sufficient corpus of jurisprudence will have been developed to facilitate a more meaningful review of the Rome Statute.

In conclusion, my delegation wishes to commend the work of the liaison offices of the ICC, as well as the working groups in New York and The Hague. Ghana would like to reaffirm its commitment to the Rome Statute, aimed at strengthening the rule of law.

In closing, Ghana wishes to express profound appreciation to Judge Philippe Kirsch for his pioneering role in the establishment of the ICC as a novel mechanism. The greatest tribute that we can pay to him — as we hear that he will retire next year — is to rededicate ourselves to ensuring that this unique institution for the promotion of international criminal justice can stand the test of time and become an enduring legacy.

Mr. Okuda (Japan): Let me begin by thanking President Philippe Kirsch for his insightful report (see A/63/323) on the most recent work of the International Criminal Court (ICC) and by congratulating the Court on its increasingly important role in the fight against impunity in the international community.

Japan believes that we are now experiencing a crucial period for the ICC to define its role in the international community. In 2002, the ICC was established as the first permanent international criminal court. In contrast to the procedure for ad hoc international criminal tribunals, any State party may refer a situation to the Court, and the Security Council also has the authority to refer a situation to it. In the six years since the Court's establishment, three States parties have referred their situations to the ICC and one situation has been referred by the Council.

On the basis of our relatively brief experience, we have been able to strongly reaffirm the importance of cooperation by States. In cases in which full cooperation has been extended by the States concerned, the ICC is making steady progress. Where such cooperation is not available, the ICC is faced with serious challenges.

Ten years have passed since the adoption of the Rome Statute, but we must not forget the difficulties that we encountered during the negotiations for its creation. Although we finally came to agreement on the text and the Statute entered into force in 2002, unless its provisions are implemented with the utmost prudence, we will not succeed in firmly establishing the credibility and reputation of the ICC.

One of the most important principles to be kept in mind is that of complementarity. Every State has the duty to exercise criminal jurisdiction over those responsible for the most serious crimes, and the role of the ICC is complementary to such national criminal jurisdictions. States parties must do their best to exercise their national jurisdiction before referring a situation to the ICC. Moreover, in referring a situation, a State party must be prepared to cooperate fully with the ICC by fulfilling the obligations set out in the Rome Statute.

The Security Council also may refer a situation to the ICC. However, the decision to bring a situation before the Court entails heavy responsibility, and the Council must continue to cooperate closely with the ICC on the implementation of its decision. If the Security Council makes the decision to refer a situation to the ICC, in accordance with the Charter of the United Nations, States Members of the United Nations are legally bound by the Council's decision. They are required to cooperate fully with the ICC in its investigation and prosecution. The ICC, for its part, must provide a full explanation of its actions so that it can enjoy the full support of United Nations Member States.

Today, there are 108 States parties to the Rome Statute. Japan is pleased to observe the steady increase in that number. Nevertheless, in order to enhance the role of the ICC in the international community, the Court's membership must become more universal. To that end, it is essential that more States become parties to the Rome Statute. Japan will play its role in efforts to increase the number of States parties, especially in the Asian Group, which is less well represented than other regions.

It is Japan's hope that the ICC will continue to work diligently to eradicate the culture of impunity and to consolidate its reputation. In that regard, Japan is determined to continue and strengthen its contribution to the ICC and to the development of the international criminal tribunal system as a whole.

Mr. Ahmed (Nigeria): The Nigerian delegation thanks the Secretary-General for the report on the International Criminal Court (ICC) for the judicial year 2007-2008 (see A/63/323), submitted to the General Assembly in accordance with article 6 of the Relationship Agreement between the United Nations and the Court. My delegation also thanks Judge

Philippe Kirsch, President of the ICC, for the clarity of his address. We are appreciative of the Court's relentless efforts in carrying out its mandate as an independent judicial institution charged with investigations into and trials of individuals for the most serious crimes of international concern — genocide, crimes against humanity and war crimes.

Nigeria is deeply committed to the ICC, whose establishment we recognize as one of the great advances in the area of international law. The Court's function of ensuring accountability for grave crimes is vital to the maintenance of lasting international peace and security. In order to strengthen its ability to effectively discharge that most important responsibility, the Court relies on the cooperation of States, international organizations and civil society, in accordance with the Rome Statute and international agreements concluded by the Court. Such cooperation is critical to ensuring proper investigations, the execution of outstanding warrants of arrest, the surrender of persons, the protection of witnesses, the enforcement of sentences and the enhancement of the Court's credibility as an effective tool to end impunity and contribute to the prevention of future crimes.

We welcome the increasing number of States that have become States parties to the ICC treaty. With more than two thirds of the United Nations membership having signed or ratified the treaty, there is clear movement towards the Court's universality. This welcome development is worthy of further support by those States who have yet to sign or ratify the Rome Statute.

We have taken note of efforts by the ICC to improve geographical representation, gender balance and the representation of the different legal systems of the world in its recruitment activities in accordance with resolution ICC-ASP/1/Res.10 of the Assembly of States Parties. As we commend those efforts, we wish to underscore the need for the ICC to achieve the target of wide geographical representation and gender balance, especially in regard to the African region, which, in spite of the fact that it provides most, if not all of the situations before the Court, is still underrepresented. We believe that the necessary balance can be attained without compromising the quality of staff selected.

The Nigerian delegation considers victims as a critical component of the justice system and believes that for them to have the necessary closure, efforts must be made to bring about healing. We are therefore delighted that the Court has so far received applications from 960 victims for participation in the trials and that 168 of them are already so participating.

The ICC currently has four situations — Uganda; the Democratic Republic of the Congo; Darfur, The Sudan; and the Central African Republic — and six cases before it. twelve arrest warrants have been issued, with seven of them still pending. With the expected increase in the number of cases in 2009, additional funding will be needed. We therefore call on all States to disburse their outstanding contributions to the Court to enable it attain its 2009 budget of €105.1 million.

We are pleased to note that the Court has already entered into 10 agreements with States on the protection and relocation of witnesses and 2 agreements with States on the enforcement of sentences. We believe that, in order to encourage more States to enter into such agreements with the Court, the Court needs to become more proactive in exploring ways to facilitate the participation of more developing States in that regard.

The Nigerian delegation realizes that family visits to accused persons involve costs, especially since courts are located far away from the normal places of residence of family members. Although family visits may not be considered a fundamental right, refusal of such visits could nonetheless demoralize both family members and the accused themselves. We understand that the issue will be discussed during the seventh session of the Assembly of States Parties, to be held at The Hague in November. We hope that due consideration will be given to all aspects of that important matter before arriving at a decision.

The situation in the Darfur region of the Sudan has aroused a great deal of interest in the international community, especially since the ICC Prosecutor's initial report to the Security Council (see S/PV.5216). Since then, there has also been a request for deferral duly brought under article 16 of the Rome Statute of the ICC. We believe that the request — which is a legally backed process and which does not imply a conflict between peace and justice — should be allowed to run its course. We are also confident that the international community will not allow a politicization of the process.

In conclusion, the Nigerian delegation reiterates its commitment to and continued support for the International Criminal Court.

Mr. Muita (Kenya): My delegation believes that the establishment of the International Criminal Court (ICC) is an enormously significant advancement in international law. We recognize the Court's unique judicial role and, in particular, the important part it is playing in our efforts to put an end to impunity through the prevention of the most serious international crimes and guaranteeing lasting respect for the rule of law. Impunity not only encourages the recurrence of abuses, but also strips human rights law and humanitarian law of their deterrent effect. Therefore, the Court provides an enforcement mechanism to prevent that.

I would like to take this opportunity to reaffirm Kenya's commitment to its obligations under the Rome Statute. We appreciate the ongoing cooperation and consultation between the ICC and the Office of the Kenya Attorney-General on a broad range of issues. This attests to the recognition and support that my country gives the Court.

My delegation pays tribute to Judge Philippe Kirsch, President of the International Criminal Court, and his team for their excellent stewardship of the affairs of the Court. Judge Kirsch's unquestioned commitment to justice has contributed to the development and success of the Court to date. As he approaches the end of his term, we wish him all the very best.

Kenya welcomes the report of the ICC for the period 1 August 2007 to 31 July 2008 (see A/63/323). It provides us with a very useful framework for evaluating the successes and challenges faced by the Court. As we have seen, implementing the Rome Statute is challenging. My delegation believes the success of the ICC hinges on the collective cooperation of Member States, the United Nations and the Security Council. In particular, the success of the Court depends on widespread ratification of its Statute, given that it is treaty-based and largely depends on the compliance of States parties with their obligations under the law.

We are very encouraged that the number of States parties increased during the reporting period from 105 to 108. This is testimony to the growing acceptance of the universality of the Statute. More recently, the ratification and accession by Madagascar, the Cook Islands and Suriname was most welcome.

The increasing number of States parties to the Rome Statute and to the Agreement on Privileges and Immunities is testimony to the global judicial character of the Court. In that respect, Kenya congratulates Mexico, the Netherlands, Portugal, and the United Kingdom on becoming parties or signatories to the Agreement on Privileges and Immunities of the Court. We urge the States that have not done so to consider becoming parties to the ICC Statute.

My delegation is concerned that the definition of the crime of aggression is still pending. Similarly, the fact that the Court has not conducted a full cycle of proceedings since its inception is worrying. That state of affairs will have an impact on the first review of the Statute of the Court. However, Kenya believes the challenges are not insurmountable if States demonstrate a willingness, inter alia, to cooperate. That is especially true considering that the Rome Statute affords us the opportunity to deal with serious crimes against humanity under domestic law before the ICC can assume jurisdiction. We are convinced that the principle of complementarity is a positive aspect that can help us build upon our quest to promote and protect human rights.

I am pleased to report that Kenya is on course in its endeavour to implement internal mechanisms to expedite domestication of the Rome Treaty. In recognition of our responsibilities with regard to the rule of law and, in particular, the Rome Statute, the Government enacted the Witness Protection Act on 31 October 2006 and has now commenced a witness protection programme, which was launched at the United Nations Office in Nairobi on 1 July 2008. The launch of that programme is a landmark in our domestic criminal justice system. We believe that the incorporation of a financial allocation into the national budget for the 2008-2009 fiscal year will give impetus to our efforts.

Kenya fully supports the inter-Court seminars and diplomatic briefings held under the auspices of the International Criminal Court and the International Court of Justice, among other international judicial bodies. Those seminars and briefings will certainly promote awareness about the activities of the Court. We also appreciate the Court's outreach programme and the progress achieved through it. Such activities are crucial to our strategy to promote and enhance the dialogue needed to realize the plan of action for the

achievement of the universality and full implementation of the Rome Statute.

My delegation is gratified by the strengthened and enhanced cooperation between the Court and the United Nations, in line with the Relationship Agreement. That cooperation is instrumental to the success of the activities of the Court and should be sustained. We commend the role being carried out by the Court's liaison office in New York. We propose the establishment of a similar framework for the developing world, especially Africa.

The completion of the first phase of the digitalization of the entire legislative history of the Rome process by the Assembly of States Parties and the Codification Division of the Office of Legal Affairs, funded by the Court, is a milestone in the effort to disseminate information about the Court. This resource will be of invaluable use to the international community.

Given that the operations of the International Criminal Court are in harmony with the principles enshrined in the Charter of the United Nations, the Court's work contributes to the maintenance of international peace and security. For that reason, my delegation appeals to States to uphold the model law that they have helped to establish. The commitment of States and all other relevant actors should transcend political considerations in order to help preserve the Court's independence and integrity.

Mr. Badji (Senegal) (*spoke in French*): I should like at the outset to express my heartfelt congratulations to Mr. Philippe Kirsch, President of the International Criminal Court, on the quality of the work that he has accomplished at the helm of that institution and on the detailed information contained in his statement. I also congratulate his fellow judges and the other personnel of that institution.

As members are already aware, Senegal was the first country to ratify the Rome Statute of the International Criminal Court. In addition, one hardly need recall that my country was among the first to sign the international appeal for the establishment of an international criminal court. For those reasons, I once again welcome the opportunity provided by the review of the annual report of the Court (see A/63/323) to reaffirm Senegal's interest in that institution's activities.

Of course, it is difficult to precisely gauge the real impact of the International Criminal Court a few years after it commenced its work. However, Members will certainly agree with me that, in the light of the Court's report, one can say without risk of being wrong that the Court has revived the glimmer of hope that its establishment gave to victims whose hopes and expectations for justice were so constantly disappointed. Today, after several years of tireless efforts and struggles, we have put in place the instrument so eagerly awaited by all women and men of goodwill, who have arduously devoted themselves to ending the horrors and atrocities that have shaken and shattered all humankind.

Obviously, the advent of the International Criminal Court is one of the most valuable achievements of our time in combating the impunity of perpetrators of the most serious crimes. Indeed, with its establishment, the Court has contributed, through its deterrent effect on potential perpetrators of serious crimes, to a decline in the number of atrocities throughout the world that were so common, particularly during the twentieth century.

Moreover, six years after it began its work on 1 July 2002, we can boast of having established a permanent Court with a universal mission — a Court that is fully operational, with ongoing investigations and judicial proceedings in four situations, and that has been acceded to by 108 States parties and enjoys the active support of more than 2,500 non-governmental organizations and civil society. We have also been able to establish a system in which victims participate in proceedings and benefit from protection and assistance.

In short, as so well stated by the Prosecutor of the Court, Mr. Luis Moreno-Ocampo, in November 2003 during the oath-taking ceremony for the Deputy Prosecutor, Mr. Serge Brammertz,

> "The creation of the International Criminal Court represents, for the international community, a step comparable to the evolution of over 10 centuries of national criminal justice systems".

However, the very significant progress made during the life of our young institution should clearly not prevent us from fully understanding the complexity and scale of the enormous challenges that we must face in order to complete our joint effort to build an international justice system that can fulfil the legitimate aspirations of peoples to peace and justice.

That is why we must never lose sight of the principles that guided the drafting of the Rome Statute of the International Criminal Court: the need for an international, independent, non-political and representative Court that can work efficiently and effectively to bring to justice those responsible for the most serious crimes; the right of States to shoulder the responsibility for prosecuting such crimes, if they are willing and able to do so; the need to guarantee reparation and adequate compensation to the victims of such crimes; and the need to protect the rights of accused persons and the role of the Security Council in the maintenance of international peace and security in accordance with the Charter of the United Nations. Those principles must always guide the Court if we wish to fully succeed, without any legal tricks or devices, in making it an effective, transparent and non-selective institution.

In reaffirming our commitment to and unfailing support for the International Criminal Court, as well as our commitment to do our utmost to ensure that it has the independence and credibility necessary to eradicate impunity throughout the world, I should like to conclude by solemnly appealing to the entire international community to provide the Court with the cooperation and support it needs to carry out its noble missions.

Mr. Hernández (Mexico) (*spoke in Spanish*): The delegation of Mexico would like to thank the President of the International Criminal Court, Judge Philippe Kirsch, for his presentation of the Court's fourth annual report (see A/63/323), pursuant to the Relationship Agreement between the United Nations and the Court. I would like to pay tribute to that jurist, diplomat and magistrate for all his effort, first in achieving the adoption of the Rome Statute and, secondly, in making the Court fully operational. The international community is indebted to Judge Kirsch.

The report's delivery comes on a special occasion, as we commemorate the tenth anniversary of the adoption of the Rome Statute, which established the International Criminal Court. Mexico celebrates the first decade of existence of an international court whose fundamental challenge is to meet the desire cherished by the international community since the beginning of the last century: to put an end to impunity for the gravest crimes of concern to all of humankind. Ten years following the adoption of the Rome Statute, its universalization remains both a shared aspiration and a task to be pursued jointly, in the interest of achieving the objectives of international criminal justice, as enshrined in the Statute itself. The Government of Mexico congratulates Madagascar on its ratification of the Rome Statute and congratulates Suriname and the Cook Islands on their accession to the Rome Statute during this year, bringing the number of States parties to 108.

Mexico enthusiastically welcomes the achievements made in the four and a half years since the Court's jurisdiction came into effect, without losing sight of the difficulties and challenges that have arisen in the fulfilment of its mandate. As my delegation has previously stated, both the goal and the challenge of the Court lie in its becoming a model of expeditious, effective and transparent justice. In this context, I would like to convey a number of considerations on behalf of my Government on this judicial body's work.

I turn first to expeditious and effective justice. Ten years ago, the plenipotentiary representatives of the United Nations gathered in Rome to provide the Statute with the necessary minimum tools and mechanisms to fulfil the principle of effective and expeditious justice. To that end, the Rome Statute was equipped with clear and precise Rules of Procedure to safeguard the rights and interests of the parties concerned in specific cases. Mexico underscores the effectiveness of those tools and mechanisms and deems the Rules of Procedure adequate to guarantee full respect for the rights of the accused, victims and other actors. Their application at the various stages of proceedings and the gradual consolidation of the Court's jurisprudence will ensure that the expectations of a model of agile and effective justice are satisfied.

Despite these promising signs, Mexico expresses its concern that, more than two and a half years after the surrender of the first accused to the Court, it has still not been possible to begin its first trial. My Government is fully aware of the challenges that arise in initiating intrinsically complex judicial proceedings and acknowledges that the creation of the Court's own jurisprudence is, by definition, a difficult task. Mexico further recognizes that a lack of cooperation, which I will address later, has been one of the main complicating factors in all areas of the Court's work. Even in this context, the early removal of possible procedural obstacles is fundamental to allowing the Court to exercise its jurisdiction effectively and efficiently, especially when alleged perpetrators are in

the custody of the Court. It is fundamentally important to ensure proper preparation of cases, both throughout the investigation phase and in the manner of obtaining and presenting evidence.

The Court should begin its first trial primarily to bring justice to victims, but also to move forward in building its jurisprudence. It is up to States to fulfil all their obligations without delay, and it is up to the Court to prepare and handle cases in the most diligent fashion possible at every stage, in order to avoid any situation that could encumber its progress and to guarantee full respect for the rights of the accused.

Regarding international cooperation, it was clear 10 years ago that one of the fundamental premises for the International Criminal Court to fulfil its mandate was the full cooperation of States parties in the investigation and prosecution of crimes under the Court's jurisdiction. This fundamental pillar was embodied in article 9 of the Statute. Given the very nature of the investigations carried out by the Court, it is unquestionable that the Court must be able to rely on the firm and immediate support of those States in which investigations are taking place: the situation countries. Moreover, the complexity of the Court's work also obliges the rest of the international community, including international and regional organizations, to cooperate fully with the Court. In this regard, it is essential that States respond rapidly to the Court's requests for cooperation and, above all, that they execute its orders, particularly arrest warrants issued against presumed perpetrators.

Mexico recognizes with satisfaction that, in several instances, the level of cooperation has been excellent; proof of this is the detention and surrender to the Court of Mr. Thomas Lubanga, Mr. Germain Katanga and Mr. Mathieu Ngudjolo Chui by the Democratic Republic of the Congo, as well as the recent detention and surrender of Mr. Jean-Pierre Bemba Gombo by Belgium. My Government wishes to extend its deep appreciation to those States for their actions.

Similarly, the cooperation and assistance for the Court's activities extended by various bodies and offices of the United Nations, as outlined in the report, deserve acknowledgment. In spite of this progress, there is still considerable distance to go before the full cooperation required by the Statute is achieved. Seven of the arrest orders issued to date have not yet been executed, and a number of the investigations being carried out by the Prosecutor's Office in situation States are constantly hindered by a lack of assistance from local authorities. The international community is concerned at the lack of cooperation from the Government of the Sudan, with regard to both the investigations taking place on its territory and the arrest and surrender of suspects of crimes within the jurisdiction of the Court.

International and non-governmental organizations continue to report the existence of generalized attacks against the civilian population in the Sudan. As of today, there have been over 200,000 civilian casualties and nearly 2 million displaced persons from the region since the outbreak of the conflict.

It is equally indispensable that we enhance security for the international humanitarian personnel deployed by the United Nations, who have been the target of attacks. In the case of the United Nations Mission in the Sudan the lack of security has resulted in the death of 38 people. Given these numbers, the existence of a peace process in the region is not sufficiently clear.

Mexico is convinced that peace and justice are inseparable components of any endeavour to end any armed conflict. A false dichotomy between peace and justice only damages the performance of the institutions created to preserve international peace and justice. While these institutions may have different mandates, their role is to complement and reinforce one another. Their role is to ensure that political processes include the elements needed to ensure that there is no room for impunity. The rendering of justice strengthens the search for lasting and peaceful solutions.

The international community cannot ignore the gravity of such situations. On the contrary, it should strengthen its efforts to act on the basis of a model of justice that values the end to impunity more than a political agreement.

With respect to financial efficiency, ten years ago the International Criminal Court was conceived as a model international institution in terms of financial management and administration. The complex and diverse activities assigned to the Court naturally required a large budget to enable it and its different organs to carry out their respective duties. It has been

the Court's responsibility and challenge to find ways to achieve a proper, diligent and transparent administration using the resources granted to it.

Mexico has closely followed the Court's financial development and acknowledges the efforts made and measures taken to use its resources responsibly and efficiently. Nevertheless, there is room for improvement in every financial model. My Government is of the view that there are certain areas that can be fine-tuned to render the Court more fully cost-effective and at the same time ensure that it be able to fulfil its mandate.

Adequate and comprehensive budgetary planning, better financial practices in certain areas and the proper rationalization of resources are fundamental to achieving this goal, particularly in times such as these, times of general financial crisis. Therefore, Mexico will participate actively in the upcoming examination of the Court's budget by the Assembly of States parties and invites all other States to act accordingly.

Ten years ago, 160 States successfully overcame serious difficulties and differences in pursuit of a common cause that finally materialized in the adoption of the Rome Statute and the creation of the International Criminal Court. Today, 108 States have confirmed their commitment to that same cause. Mexico is convinced that they will not waver until justice prevails and all persons responsible for committing the most heinous crimes are held accountable before the International Criminal Court.

Mr. Mohamad (Sudan) (*spoke in Arabic*): We have examined with regret the content of the report presented to the General Assembly on the activities of the International Criminal Court (ICC), including in the Sudan (see A/63/323). It is a document full of exasperating political deceit that is directed at the President of our Republic himself, the symbol of our dignity and of our nationhood. The author of the report is an international prosecutor who has acted unprofessionally and is motivated by a political agenda that has now been unmasked by his fervent hysterical political actions, which are not those of a respectable man of justice and undermine both justice and his position.

The catastrophic actions of the Prosecutor of the International Criminal Court has led him to issue an arrest warrant for the President of our Republic, which is but one additional link in the conspiracy chain that makes up his shameful political agenda. This action has led to outrage and criticism from all regional organizations, which have asked him to correct the situation in order to ensure peace and security in the Sudan.

The Sudan is not a party to the Rome Statute, which set up the International Criminal Court. This is Sudan's sovereign right, which stems from the Charter of the United Nations and international law and from the 1969 Vienna Convention on the Law of Treaties, which clearly stipulates that the *pacta sunt servanda* principle is an important one and that Member States are not bound by commitments that they have not taken of their own free will. The attempt therefore to impose a convention on a State that is not a member of that convention undermines all norms and established rules of international law.

The ICC should not be a tool in the hands of political organs, since that would undermine its credibility and impartiality. Security Council resolution 1422 (2002), adopted following the entry into force of the Rome Statute, states that States that are not party to the Rome Statute and therefore not members of the ICC are not bound by the provisions of the Rome Statute. They will continue to fulfil their responsibilities in their national jurisdictions. That is what the Sudan is doing, thanks to its competent court system, which is known for its efficiency.

Resolution 1593 (2005), which referred the situation in Darfur to the Prosecutor of the International Criminal Court, is a faulty resolution and contradicts resolution 1422 (2002), which deals with the obligations of States parties and States not party to the Rome Statute. In addition, resolution 1593 (2005) clearly recognizes that States not party to the Rome Statute have no obligation under the Statute. Is that the thrust and universality of the justice that he preaches and seeks? This is the justice of might makes right. Is it right that this report should remain silent about genocide, war crimes and crimes against humanity that are committed on a daily basis throughout the Middle East and Asia? The report resorts to holding the Sudan hostage. If the pretext is based on the policy that Member States must submit to the jurisdiction of the Court, why then are those States that are in a state of war in regions such as the Middle East and Asia not themselves dealt with by the Court?

That is a selective approach based on a system of double standards. That is why the African Union Summit, convened in July 2008 at Sharm el-Sheikh in Egypt, adopted a historic and important decision, in which the African Union expressed its concerns and denounced what is known as universal jurisdiction. All day today we heard nothing but the names of the Democratic Republic of the Congo, the Sudan and the Central African Republic, but we have not heard anything about Iraq or Afghanistan — only about the Sudan, Darfur, the Central African Republic and the Democratic Republic of the Congo.

The Rome Statute, which established the International Criminal Court, stipulates that its provisions shall not run counter to established norms of international law. In that regard, the actions of the Prosecutor are incompatible with the Rome Statute, for he has disregarded well-established immunities under international law in respect of the President of a State, a case that was dealt with by the International Court of Justice. The violation of immunities undermines the principles of sovereignty and leads to chaos, which should not be allowed by the international community. Peace in the Sudan is the best guarantee of international justice. Justice is not achieved by merely turning to a court.

The experience in South Africa is itself proof of the primacy of law, which is an integral part of the road map involving the Sudan, the African Union and the United Nations, which is based on four tracks. The four components of the peace process are the hybrid peacekeeping operation, the humanitarian tier, rehabilitation and development. The actions of the Prosecutor do not comply with that road map, but open the door wide to situations fraught with danger with regard to the security of the Sudan and the region as a whole.

We are confident that the international community supports the peace efforts brought about by the Sudan's People's Initiative, in close cooperation and coordination with the chief negotiator, Djibril Bassolé, in accord with the African-Arab initiative under the presidency of Qatar. The Sudan reiterates its commitment to comply with all of its obligations with regard to the African Union and the United Nations. The international community must protect the peace process against any political schemes. The slogan of justice should not be used as a pretext to exert pressure and to blackmail States. Throughout the day, we have heard nothing but references to Darfur, the Congo and the Central African Republic.

Ms. Cabello de Daboin (Bolivarian Republic of Venezuela) (*spoke in Spanish*): On behalf of my Government, I would like to convey the support of the delegation of the Bolivarian Republic of Venezuela for the leadership shown by Mr. Miguel d'Escoto Brockmann and to offer him the cooperation necessary for the success of this and future meetings on such important issues as international peace, security and justice, which are the guarantees of the well-being of humankind.

Similarly, we would like to thank Judge Philippe Kirsch, President of the International Criminal Court (ICC), for his introduction of the report of the Court (see A/63/323) and to commend him on the results achieved by the ICC in the past year.

From the first discussions on drafting the text of the Rome Statute of the International Criminal Court, my country played an active and resolute role in establishing the ICC, based on the premise that the most serious crimes, which constitute a threat to the international community, must not go unpunished.

In that regard, it is necessary to underscore the importance for States to adopt national measures, aimed at strengthening international cooperation, thus ensuring that those crimes are in fact brought to justice.

It is fitting to recall that my country was the first in Latin America to ratify the Rome Statute and has always upheld the integrity of that instrument against steps taken to undermine it, not only through the rejection of the special immunity agreements established or at times imposed on other countries, but also through the condemnation of the many resolutions that have sought to distort the independence of the Court and undermine the efforts of the international community to achieve universal criminal jurisdiction.

My delegation would like to emphasize that the Bolivarian Republic of Venezuela has placed particular emphasis on preserving the independence and autonomy of the ICC and of its Statute in the ongoing negotiations to define the crime of aggression. Our actions have included submitting a proposal aimed at safeguarding to the utmost the independence of the Court when it is to handle a case involving the alleged commission of a crime of aggression, thus firmly

opposing those who seek to subordinate the proceedings of that international organ of justice to the Security Council.

Our delegation believes that the competencies of the Security Council and the ICC are well defined and must not give rise to false dilemmas with regard to steps to be taken against crimes already classified or with respect to the crime of aggression, which we shall define in the near future, because that crime must be repudiated and condemned in all its forms.

We would like to use this occasion to call on those States that have not yet done so to accede to the Rome Statute, on the premise that the Court should be established as the supreme authority to end impunity and to try the perpetrators of the most serious crimes that affect the international community as a whole, be it genocide, war crimes, crimes against humanitarian or acts of aggression.

The legal order is responsible for establishing and maintaining peace, an unconditional and absolute peace where each human being can exercise his or her freedom under the rule of law. A truly democratic State based on the rule of law is founded on truth, fairness and social justice.

In conclusion, we must point out that the search for truth is not in conflict with achieving justice. Truth is devalued when it is not associated with justice, and the application of justice without the understanding that truth imparts engenders the worst iniquities. In turn, peace and justice are inseparable. We cannot and must not sacrifice one for the other. Justice is crucial for the development of societies, including an international society.

Mr. Butagira (Uganda): My delegation is very pleased that Mr. d'Escoto Brockmann is chairing our meetings, and we pledge our full commitment to work with him and his Bureau.

We also take this opportunity to thank Judge Philippe Kirsch, President of the International Criminal Court, for the detailed and informative report (see A/63/323). We shall endeavour to elucidate some of the points raised in the report, placing special emphasis on those pertaining to Uganda.

We welcome the report, especially those parts that recognize the efforts made by the Government of Uganda to cooperate with the Court with a view to executing the arrest warrants. As recently as June 2008, regional Governments met in Kampala and agreed on joint operations against the notorious Lord's Resistance Army. We call on those States that have the means to reinforce those efforts to end that affront to the resolve of the international community to bring to justice the perpetrators of the most serious crimes. One way would be to revise the mandate of the United Nations Organization Mission in the Democratic Republic of the Congo, to make it robust so as to include the apprehension of the leadership of the Lord's Resistance Army. Unless the culprits are brought to justice, the Lord's Resistance Army will continue to cause mayhem in the region, as it is currently doing.

The Lord's Resistance Army is a cancer that needs to be eradicated urgently before it can spread any further. It is common knowledge that it started its heinous criminality in northern Uganda. Our forces fought it and flushed it out of Uganda. Uganda had warned right from the beginning that unless there was cooperation from the international community, the situation could turn into a regional disaster with far-reaching implications. Unfortunately that warning was not heeded. As we speak, the Lord's Resistance Army is abducting children in eastern Democratic Republic of the Congo, in the Sudan and in the Central African Republic, and it has reinforced its forces by the hundreds by adding the kidnapped children to their number. For the sake of those and other victims, we once again appeal for concrete action.

We fail to understand the reluctance of those with the means to assist in getting rid of this ugly spot from our midst. What started as a northern Uganda problem has slowly but predictably sucked in other surrounding States until it has gained the notoriety of a regional disaster.

Therefore, for the sake of the victims — the abducted children, those who have been forced into sex slavery — and for the sake of the hundreds of children who are forced to kill members of their families so as to initiate them into that heinous organization, we call for cooperation in ending this travesty. Without bringing the perpetrators of those crimes to justice, there will be no lasting peace in the region.

Uganda calls on the United Nations and the Member States to support the International Criminal Court so that its credibility might not be doubted. The Court must remain independent so that it is not viewed

with suspicion, as an institution designed to settle political scores.

We welcome the outreach programmes of the Court in Uganda because they enhance appreciation of the international criminal justice system, especially by the victims, who are the cardinal stakeholders. For its part, in order to reinforce this outreach effort, the Government of Uganda has offered to host the first review conference of the Rome Statute in 2010 to further enhance the visibility of the Court in the region. We welcome the support expressed for Uganda's offer to host the review conference.

Uganda will continue to cooperate with and support the International Criminal Court. This is evident in our effort to provide well-qualified personnel to the bench and other organs of the Court.

Uganda does not support impunity. We recognize that it is a cardinal objective of the Rome Statute to end impunity and to bring to justice the perpetrators of the most serious crimes. That is why Uganda was the first to make a referral to the Court in order to investigate the Lord's Resistance Army. Indeed, the Prosecutor's investigation and application resulted in indictments and arrest warrants, which, unfortunately, have yet to be enforced. International cooperation is crucial in any effort to secure any arrests, particularly since the fugitives are outside the territory of Uganda.

The Acting President: We have heard the last speaker in the debate on this item. The General Assembly has thus concluded this stage of its consideration of agenda item 69.

Programme of work

The Acting President: I wish to inform members of a slight change in the programme of work for Monday morning, 3 November 2008. The Assembly will first take up, in a joint debate, agenda item 40, "Report of the Economic and Social Council", and agenda item 44, "Integrated and coordinated implementation of and follow-up to the outcomes of the major United Nations conferences and summits in the economic, social and related fields". The Assembly will then take up, as the second item, agenda item 114, "Cooperation between the United Nations and regional and other organizations", with its sub-items, followed by agenda item 59, "Holocaust remembrance", as the third item.

The meeting rose at 6.15 p.m.